CONVERSION—ELECTRICITY—WAIVER OF TORT.—P occupied an upper floor in a building, the basement of which was occupied by D. Whether one was tenant to the other, or they were tenants of a common landlord, or otherwise, does not appear. In the basement was a large electric light which for several years drew current through a meter on P's premises, for which, presumably, P paid the producer of the electricity. Apparently neither party knew of the connection of the lamp with the meter during any of the period in question. P now sues D for the value of the electricity thus consumed at his expense. The pleadings are not set forth but we are told that P's counsel "properly characterized the action 'as a suit upon an implied contract." *Held,* that a demurrer to the petition was properly sustained. *Kirkpatrick Co.* v. *Hamlet,* (Ct. of App. of Ga. 1917), 93 S. E. 226.

The court says, "The present action is a suit upon an implied contract for the value of personal property wrongfully taken and converted to the use of the defendant. * * * Where one wrongfully takes the personal property of another and converts the same to his own use in some other manner than by a sale and does not receive any money therefor, the owner * * * cannot waive the tort and sue upon an implied contract."

The cases cited by the court are all cases where defendant was clearly guilty of a conversion, upon the plaintiff's theory of the facts. When we are asked to pass from this class of cases to others where there is no tort, we should pause to make some important observations. First, given a tort remedy, it is not a matter of great importance whether we give or refuse a concurrent remedy of a quasi-contractual nature, whereas, if there is no tort remedy, the question as to the quasi-contractual remedy is vital. Secondly, the only reason given for these rulings is the ancient objection to concurrent remedies, appearing in the earliest of the Georgia cases in these words, "Unless trover be required in such a case as this, there can be none in which it ought to be required. We are not prepared to say that there are not some cases in which the law requires trover." (*Spencer* v. *Hewett,* 20 Ga. 426). In that case, the court distinguished one of the authorities cited for the plaintiff by saying, "in that case the facts were such that unless an action *ex contractu* would lie, none would lie." It thus appears that the principal case is a decision, not, as might at first appear, mere dictum, that D was guilty of a tort. And, if any tort was committed, it would seem to have been, as suggested by the court, a conversion. This is, of course, a somewhat novel conversion. Electricity is not, so the physicists tell us, matter, but force; which means that the case is from the physical point of view more nearly analogous to making one's neighbor work for him under the point of a gun, than to taking or detaining his goods. But, to any such objection, it would seem to be a sufficient answer that for all the practical purposes with which the law is concerned, electricity is like liquids and gases in vessels and pipes; that in all its commercial aspects it is goods. And, if authority is demanded, we find an equal extension of the original conception of conversion in the cases holding that shares of stock, as distinguished from certificates of stock, are the subject of conversion. *Payne* v. *Elliot,*

54 Cal. 339; *Ralston* v. *Bank of California,* 112 Cal. 208; *Daggett* v. *Davis,* 53 Mich. 35; *Budd* v. *Multnomah Co.,* 12 Ore 271; *Rio Grande Co.* v. *Burns, Walker & Co.,* 82 Tex. 50.

CORPORATIONS—CARE REQUIRED OF CORPORATE DIRECTORS.—A director of a Building and Loan Association, recommended a loan on property already incumbered by a mortgage under his control in his personal capacity. He made no inquiry in regard to the property and was ignorant that it was the same property which was incumbered. An article of the Association stated that "No money shall be loaned on property already incumbered." There was no charge, nor proof of fraud, embezzlement, or wilful misconduct nor breach of trust for the beenfit of the director, nor a mistake of judgment but mere inattention and negligence which made possible fraud perpetrated by another officer of the Association. *Held,* that the director was guilty of such negligence as renders him liable for the loss which was occasioned to the Association by the reason of his failure to act. *Four Corners Building & Loan Association of Newark* v. *Schwarzwaelder* (N. J. Chancery, 1917), 101 Atl. 564.

This case broadens the scope of the existing law in New Jersey which has been expressed in the cases of *Williams* v. *McKay,* 46 N. J. Eq. 25 and in *Gerhard* v. *Welsh,* 80 N. J. Eq. 203; that the duty of bringing to their office (that of a director), ordinary skill and vigilance was none the less exacting though they were unpaid servants. They became engaged to carry on the business of the corporation in the same way that men of common prudence and skill conduct a similar business for themselves. Honesty of intention will not excuse imprudence or indifference. The instant case goes further and holds that apart from any wilful act, a director is held responsible when he performs an act which under all the circumstances he is bound *not* to perform or that he does not perform an act which under all the circumstances he is bound *to* perform. The United States Supreme Court has given great lee-way to the directors and has held that they are liable only for fraud or for such gross negligence as amounts to fraud. *Briggs* v. *Spaulding,* 141 U. S. 132. Pennsylvania courts have gone further, and have held that where the directors have not sought to make any personal profit there is a strong presumption negativing negligence. They are likened unto a gratuitous bailee who is liable only for failure to exercise a slight degree of care. *Swentzel* v. *Penn. Bank,* 147 Pa. St. 140. The principal case expresses the best line of authority and states the rule to be that such officers must exercise ordinary care, *i. e.,* that care which every man of common prudence and discretion takes of his own concerns. This decision is of great interest to the investor and will act as a stimulus to the market. Cf. *Bank* v. *Hill,* 56 Me. 385; *Marshall* v. *Bank,* 85 Va. 676; *Warren* v. *Robison,* 19 Ut. 289.

CORPORATIONS—MAJORITY OF STOCKHOLDERS ALIEN ENEMIES LIVING IN ENEMY COUNTRY—RIGHT OF CORPORATION TO SUE.—In an action by the plaintiff, a corporation organized under the laws of the state of New Jersey, with 94% of its capital stock owned by a German corporation and a German citizen resident in Germany, defendant filed a motion to stay the plaintiff from fur-